

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

PETER J. DEAN,

Plaintiff,

v.

CITY AND COUNTY OF SAN
FRANCISCO, et al.,

Defendants.

No. 1:23-cv-00542-ADA-SKO

ORDER DIRECTING THE CLERK TO
TERMINATE DEFENDANT RACHEL
GARDUNIO

(Doc. 12)

On June 5, 2023, Plaintiff filed a notice of voluntary dismissal without prejudice of Defendant Rachel Gardunio, pursuant to Federal Rule of Civil Procedure 41(a)(1)(A). (Doc. 12.)

In relevant part, Rule 41(a)(1)(A) provides as follows:

[A] plaintiff may dismiss an action without a court order by filing: (i) a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment; or (ii) a stipulation of dismissal signed by all parties who have appeared.

Fed. R. Civ. P. 41(a)(1)(A). “The plaintiff may dismiss some or all of the defendants, or some or all of his claims, through a Rule 41(a)(1) notice,” and the dismissal “automatically terminates the action as to the defendants who are the subjects of the notice.” *Wilson v. City of San Jose*, 111 F.3d 688, 692 (9th Cir. 1997).

1 Plaintiff filed his notice before Defendant Rachel Gardunio served either an answer or
2 motion for summary judgment. (*See* Docket.) As such, Plaintiff has voluntarily dismissed
3 Defendant Rachel Gardunio without prejudice, and this case has automatically terminated as to
4 those defendants. Fed. R. Civ. P. 41(a)(1)(A). Accordingly, the Clerk of Court is directed to
5 TERMINATE Defendant Rachel Gardunio.

6 This case shall remain OPEN pending resolution of Plaintiff's case against the remaining
7 defendants.

8
9 IT IS SO ORDERED.

10 Dated: **June 6, 2023**

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE